

CHAPTER 46:30:08
COCHLEAR IMPLANTS

Section

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46:30:08:01. Definitions. Terms used in this chapter mean:

(1) ~~"Cochlear implant," a surgically implanted device that assists an individual with severe and profound hearing loss hear sounds;~~ "Applicant," a parent or legal guardian of a child less than 18 years of age or an individual 18 years of age but less than 21;

(2) "Cochlear implant," a surgically implanted device that assists an individual with severe and profound hearing loss to hear sounds;

~~(2)~~(3) "Division," the Division of Rehabilitation Services, a division of the Department of Human Services;

~~(3)~~(4) "Initial mapping," the fitting of the external parts of the implant device and programming of the device;

~~(4)~~(5) "Profound hearing loss," a hearing impairment of 91dBHL or more;

(6) "Recipient," any person under the age of 21 requiring a cochlear implant;

~~(5)~~(7) "Severe hearing loss," a hearing impairment of 71dBHL to 90dBHL;

~~(6)~~(8) "Telecommunication fund for the deaf," a fund comprised of the deposit of access fees imposed on local exchange service lines, cellular telephones, and radio pager devices. These funds are used for telecommunication for deaf, severely hearing impaired, and speech impaired individuals.

Source: 32 SDR 32, effective August 29, 2005.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

46:30:08:02. Cochlear implant services. Cochlear implant services under this chapter are limited to those covered services in § 46:30:08:03 for a ~~child~~ recipient determined eligible pursuant to § 46:30:08:04. Cochlear implant services shall be provided by those providers approved by the division. The division shall maintain a list of approved providers.

Source: 32 SDR 32, effective August 29, 2005.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

46:30:08:03. Covered services. ~~No child may receive funds pursuant to this chapter in excess of the cost of the implant surgery for one ear, one implant device, surgeon fee, hospital fee, the initial mapping and up to a maximum of 12 follow-up mappings within one year post surgery.~~ Cochlear implant funds are limited to the following:

- (1) Cost of implant surgery for one or both ears;
- (2) Cost of two implant devices;
- (3) Surgeon's usual and customary fee;
- (4) Hospital's usual and customary fee;
- (5) Anesthesiologist's usual and customary fee;
- (6) Cost of initial mapping; and
- (7) Cost of follow-up mappings completed within one year post surgery or up to a maximum of 12.

Source: 32 SDR 32, effective August 29, 2005.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

46:30:08:04. Eligibility criteria. ~~No parent or legal guardian is~~ To be eligible for funding for the services described in § 46:30:08:03 ~~unless the parent or legal guardian has a child who~~ meets the recipient must meet the following criteria:

- (1) Is a child less than five years of age at the time of application; or
- (2) ~~Is a resident of South Dakota;~~ Is an individual less than 21 with one implant inserted before the age of five; or
- (3) Is an individual less than 21 who has a documented progressive hearing loss that led to deafness after speech and language were developed; and
- (4) Is a resident of South Dakota; and
- ~~(3)~~(5) Has a severe to profound hearing loss as diagnosed by an audiologist; and
- ~~(4)~~(6) Is medically recommended for a cochlear implant by the child's cochlear implant surgeon; and
- (7) Is not covered under a plan of health insurance, or if covered under a plan of health insurance, only those amounts payable under the plan's deductible and coinsurance are eligible for coverage under this chapter.

Source: 32 SDR 32, effective August 29, 2005.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

46:30:08:05. Application. The applicant shall submit a completed and signed application on a form provided by the division and shall include ~~documentation from the child's cochlear implant surgeon that a cochlear implant is medically recommended for the child. The division shall reject an application that fails to provide the required information.~~ the following:

(1) Documentation from the recipient's implant surgeon that one or two cochlear implants is medically recommended;

(2) Documentation of a progressive hearing loss which led to deafness after speech and language were developed, if applicable;

(3) A written quote of the provider's usual and customary charge for services listed in §46:30:08:03; and

(4) Proof of creditable coverage as defined in SDCL 58-18-55, if any.

The division shall reject any application that does not include the required information.

Source: 32 SDR 32, effective August 29, 2005.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

Cross-Reference: Creditable coverage defined, SDCL 58-18-44.

46:30:08:06. Notice of ineligibility determination. If the division determines that a ~~child~~ recipient is ineligible, the division shall notify the ~~parent or legal guardian of the child~~ applicant in writing within 60 days of receipt of the completed application. The notice shall include the reason for ineligibility and the process of appeal pursuant to § 46:30:08:13.

Source: 32 SDR 32, effective August 29, 2005.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

46:30:08:07. Additional information required if eligible. ~~The parent or legal guardian of a child who has been determined eligible must provide the following information:~~

- ~~—— (1) A written cost estimate of the cochlear implant surgery, implant device, surgeon fee, hospital fee, the initial mapping, and additional mappings prepared by the provider; and~~
- ~~—— (2) Proof of creditable coverage as defined in SDCL 58-18-44, if any Repealed.~~

Source: 32 SDR 32, effective August 29, 2005.

General Authority: ~~SDCL 49-31-50.2.~~

Law Implemented: ~~SDCL 49-31-50, 49-31-50.1, 49-31-51.~~

Cross-Reference: ~~Creditable coverage defined, SDCL 58-18-44.~~

46:30:08:13. Appeal of ineligibility. ~~A parent or legal guardian~~ An applicant may appeal the division's decision regarding ineligibility for the services provided pursuant to this chapter. ~~A parent or legal guardian~~ An applicant dissatisfied with the division's determination regarding eligibility of services may request a fair hearing pursuant to SDCL chapter 1-26 by notifying the Department of Human Services in writing within 30 days of receipt of the division's decision.

Nothing in this section may be construed as indicating that the Department of Human Services will pay for legal fees for representing the parent, legal guardian, provider, or ~~child~~ recipient at a fair hearing pursuant to this section.

Source: 32 SDR 32, effective August 29, 2005.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

Cross-Reference: Right to judicial review of contested cases -- Preliminary agency actions, SDCL 1-26-30.

46:30:08:14. Time and place of hearing -- Time extension. A fair hearing, pursuant to SDCL chapter 1-26, by an impartial hearing officer shall be held within 90 days after receipt for a request by the ~~parent or guardian~~ applicant. The impartial hearing officer shall set a time and place for the hearing to be held at the earliest reasonable time. The hearing examiner may continue the hearing at the request of any of the parties involved.

Source: 32 SDR 32, effective August 29, 2005.

General Authority: SDCL 49-31-50.2.

Law Implemented: SDCL 49-31-50, 49-31-50.1, 49-31-51.

Cross-Reference: Right to judicial review of contested cases -- Preliminary agency actions, SDCL 1-26-30.